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September 15, 2022

Hon. Paul A. Engelmayer, U.S.D.J.  
United States District Court  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**Via ECF**

Re: United States v. Celli, Dkt. No. 19-cr-127 (PAE)

Dear Judge Engelmayer:

As the Court may be aware, Mr. Celli appealed his July 20, 2021 conviction and sentence. By order dated November 15, 2021, the United States Court of Appeals for the Second Circuit appointed the undersigned pursuant to the Criminal Justice Act to represent Mr. Celli in that appeal.

I am in receipt of the letter of Susan Kellman, Esq., dated today. In her letter, Ms. Kellman poses the question, among others, whether this Court intends to permit Mr. Celli to return home pending the sentencing on his VOSR, a matter with which I have only limited familiarity.

The purpose of this letter is to bring to the Court's attention recent developments in Mr. Celli's appeal. On March 24, 2022, Mr. Celli filed his main brief. He raised two arguments. First, this Court procedurally erred when it incorporated by reference, but did not orally pronounce, the special conditions of supervised release, in violation of Fed. R. Crim. P. 43(a). Second, the fourth, fifth, sixth, seventh and ninth special conditions were unreasonable because they deprived Mr. Celli of more liberty than necessary, frustrated the goals of sentencing, were vague and/or overbroad, and delegated excessive discretion to Probation under *United States v. Carlineo*, 998 F.3d 533 (2d Cir. 2021).

On August 4, 2022, the Second Circuit granted Mr. Celli's motion for an order to expedite his appeal in light of his pending VOSR proceeding. The Second Circuit (Newman, Walker and Lee, Circuit Judges) held oral argument on September 6, 2022. During oral argument, the government twice conceded that it would not object to a

remand to have the special conditions of release read aloud to Mr. Celli.<sup>1</sup> That being said, the parties on appeal sharply dispute the proposed contours of the remand order, that is, whether Mr. Celli should have an opportunity to object to one or more of the special conditions after they are read to him, whether this Court should have an opportunity to reconsider one or more of the special conditions, and whether one or more of the special conditions should be vacated.

The panel was made aware during oral argument that the Bureau of Prisons intends to file a report in this Court by October 10, 2022. As of today, a summary order or opinion has not issued.

The foregoing is respectfully brought to this Court's attention so that your Honor, as well as the parties, have current and complete information regarding Mr. Celli's pending cases.

I thank the Court for its kind attention.

Sincerely Yours,

*s/ Daniel M. Perez*

DANIEL M. PEREZ

cc: Lucio Celli  
Susan Kellman, Esq.  
Benjamin Silverman, Esq.  
AUSA Anna Karamigios

The Court thanks counsel for this notification. The Court's inclination is to wait until there is a ruling for the Second Circuit before scheduling a conference at which the special conditions can be read aloud, so as to avoid the possible need, depending on the Second Circuit's ruling, for two successive conferences. In the event counsel believe there is nonetheless practical value to holding such a conference at this time, they are to file a letter explaining why.

9/16/2022

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

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<sup>1</sup> An audio recording of the oral argument in Mr. Celli's appeal is available on the Second Circuit's website. The government's representations that it would not object to a remand occurs between 29:00 and 30:03 of the recording.